

December 19, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

RE: Notice of *Ex Parte* presentation in: WT Docket No. 10-4, 12-69

Dear Ms. Dortch:

On December 19, I spoke with Joyce Jones, Roger Noel, Beck Schwartz and Moslem Sawez of the Wireless Bureau with regard to the above captioned proceedings.

With regard to Docket No. 10-4 (Wireless Boosters) and Docket No. 12-69 (700 MHz Interoperability), I noted that it is inconsistent as a matter of policy to assert that licensees have a right to control network attachments with regard to wireless boosters, but not with regard to 700 MHz interoperability. If the Commission affirms the position of carriers that they have a right under their licenses to demand consent for network attachment that the Commission may not modify through a duly noticed rulemaking, it must logically follow that a 700 MHz licensee can refuse to grant permission for an attachment that is interoperable. It is certainly possible to distinguish between permitting boosters without consent and requiring interoperability as a matter of policy – although Public Knowledge continues to believe that permitting boosters without consent is the better policy for reasons previously stated in this docket. If the Commission wishes to protect its authority to order mandatory interoperability, however, it is critical that the Commission reject the argument that licensees have a property right or other right under the Act to reject a device approved by the Commission when so ordered by the Commission.

The Commission has more than adequate authority to require carriers to accept attachments that do not harm the network. The recent decision by the D.C. Circuit on data roaming clearly reinforces the FCC's overall authority to set service rules pursuant to 47 U.S.C. § 303. In addition, because these carriers are also providers of Title II services, the Commission's broad powers pursuant to 47 U.S.C. §201 to ensure that carrier practices are just and reasonable is also applicable.

In the event the Commission adopts a consensual approach, the Commission should make it abundantly clear that it does so solely as a matter of policy. In addition, it should explicitly admonish carriers that it will revisit the issue if it becomes clear that carriers are unreasonably withhold consent for devices that meet the necessary technical standards, or that the process of obtaining consent unduly increases cost to consumers or retards deployment of boosters.

In accordance with the FCC's *ex parte* rules, this document is being electronically filed in the above-referenced dockets today.

Sincerely,

_____/s/_____
Harold Feld
Senior VP
Public Knowledge

CC: Joyce Jones
Roger Noel
Beck Schwartz
Moslem Sawez